

Appendix D

Memorandum of Understanding between BLM, DPR, and DFG for Management of the CCNM

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MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN
THE BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR
AND
RESOURCE AGENCY OF CALIFORNIA
AND
THE CALIFORNIA DEPARTMENT OF FISH AND GAME
AND
THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

Management of the California Coastal National Monument

Whereas, all unappropriated or unreserved lands and interest in lands owned or controlled by the United States in the form of islands, rocks, exposed reefs, and pinnacles above mean high tide within 12 nautical miles of the shoreline of the State of California were designated as the California Coastal National Monument (Monument) by Presidential Proclamation on January 11, 2000;

Whereas, the Monument was nationally recognized in the Proclamation as a biological and geological treasure, rich in biodiversity, and providing essential habitat for many species of scientific interest;

Whereas, Monument designation mandates the protection of historic and scientific objects, particularly wildlife species which normally inhabit the Monument area, and the designation limits management discretion that the Federal managers otherwise have;

Whereas, the Secretary of Interior manages the monument through the Bureau of Land Management (Bureau) and under the Bureau's existing authorities, subject to the overriding purpose of protecting the objects described in the Presidential Proclamation of January 11, 2000;

Whereas, the Secretary of Resources for the Resource Agency of California has responsibility for all nonstatutory marine and coastal resources management programs for the State of California pursuant to the 1991 amendments of the California Ocean Resources Management Act.

Whereas, the California Department of Fish and Game (CDFG) recognizes the crucial wildlife values of the lands within the Monument;

Whereas, the Bureau has always retained legal responsibility for the Monument area but the CDFG has been handling day-to-day management since 1983 under a mutually signed MOU called "Management of the California Islands Wildlife Sanctuary" (see Attachment A);

Whereas, the California Department of Parks and Recreation (CDPR) manages 25 percent of the coastline of California, including lands and waters adjacent to the Monument, and is a public trust agency with responsibilities for protecting the natural and historic values;

Whereas, the Bureau, the Secretary of Resources, CDFG, and CDPR are interested in management of the Monument as partners for the benefit of its natural and historic resources and are so authorized by appropriate federal or state legislation; and

Whereas, the Bureau, Secretary of Resources, CDFG, and CDPR recognize that the cooperation of other federal, state, local, and private entities which manage resources along the California coast are essential to ensure the protection of objects recognized in the Presidential Proclamation of January 11, 2000:

1. Bureau Authority.

- A. Intergovernmental Cooperation Act (PL 91-648).
- B. National Environmental Policy Act (PL 91-198).
- C. Federal Land Policy and Management Act (PL 94-579).

2. State of California Authority.

- A. California Fish and Game Code , Article 4, Section 1580, Ecological Reserves.
- B. Title 14, California Code of Regulations, Chapter 11, Section 630, Ecological Reserves.
- C. California Public Resources Code, Chapter 1, Section 5003
- D. Public Resources Code 36000 et seq.

Now Therefore,

The Bureau, the Resources Agency, CDFG and CDPR Mutually Agree:

1. To collaborate in the management of the Monument by carrying over to this MOU the provisions of the Memorandum of Understanding signed in 1983 "Management of the California Islands Wildlife Sanctuary" but subject to:
 - A. the conditions in the Presidential Proclamation for designation of the California Coastal National Monument,
 - B. the recognition that BLM retains the ultimate legal responsibility for the area, and
 - C. any additional agreements stated below.
2. To only authorize uses of the Monument within the constraints of the Proclamation and this agreement.
3. To authorize appropriate uses within the Monument only following consultation between the parties,
4. To work as partners in preserving the objects of historic and scientific interest outlined in the Presidential Proclamation of January 11, 2000.
5. To work as partners in mapping and understanding resources within the Monument as well as working with the public to explain the values of the Monument;
6. That this MOU and Memorandum of Understanding signed in 1983 (Attachment A) be considered an Interim MOU until the Bureau, Secretary of Resources, CDFG, and CDPR develop a new MOU which they mutually agree would accommodate additional interested coastal

partners and/or has revised or alternative provisions that benefit the purposes for which the Monument was designated.

7. That it is expressly stipulated and agreed by all parties that each and every provision in this MOU is subject to the laws of the State of California, the laws of the United States, and to the delegated authority assigned in each instance.
8. That nothing in this agreement shall be construed as obligating the parties hereto to expend funds, or for the future payment of money, in excess of appropriations authorized by law.
9. To accomplish all cooperative work under the provisions of this memorandum or supplemental memorandum of understanding or cooperative agreements without discrimination against any employee, or applicant for employment, because of race, creed, color, or national origin.
10. That this MOU shall become effective when signed by the designated representatives of the parties hereto and shall remain in force until terminated by mutual agreement, or by any party upon thirty days notice in writing to the other of its intention to terminate upon a date indicated.

Approved

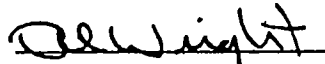


Director, California Department of
Fish and Game

5-31-00

Date

Approved



State Director, Bureau of Land Management

5/18/00

Date

Approved



Director, California Department of
Parks and Recreation

6/5/2000

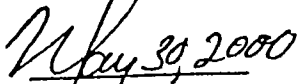
Date

5/17/00 3:00 PM/Rocks_Islands/2000MOU_With_State

I CONCUR



Secretary for Resources, State of
California



Date

Attachment A
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CALIFORNIA DEPARTMENT OF FISH AND GAME
AND
THE BUREAU OF LAND MANAGEMENT
DEPARTMENT OF INTERIOR

Management of the California Islands Wildlife Sanctuary

Whereas, the Bureau of Land Management (Bureau) is responsible for the rocks, islands, reefs and pinnacles lying off the coast of California which are presently unappropriated or reserved (other than by Executive Order 5326) and which lie above the mean high tide line; and

Whereas, the Bureau and the California Department of Fish and Game (Department) recognize the crucial value of these lands to wildlife, including the federally listed endangered Brown Pelican and threatened southern sea otter; and

Whereas, the Bureau has, through publication of Public Land Order (PLO) 6369, segregated the rocks, islands, reefs, and pinnacles off the coast of California from the action of the general public land laws, including the mining and mineral leasing laws; and

Whereas, the Bureau has, through PLO 6369, designated the California rocks and islands as the California Islands Wildlife Sanctuary; and

Whereas, the sanctuary is defined by the contents of PLO 6369 which states that it is "All of the islands, rocks, pinnacles, and reefs...situated in the Pacific Ocean off the coast of California, lying above the mean high tide from Oregon to the Mexican border...which are withdrawn from...settlement, sale, location, or entry under the general land laws, including the mining and mineral leasing laws, subject to valid existing rights....;" and;

Whereas, the Bureau and Department are both interested in management of the Sanctuary for the benefit of its wildlife resources and are so authorized by appropriate federal or state legislation:

1. Bureau Authority.

- A. Intergovernmental Cooperation Act (PL 91-648).
- B. National Environmental Policy Act (PL 91-198).
- C. Federal Land Policy and Management Act (PL 94-579).

2. Department Authority.

- A. California Fish and Game Code , Article 4, Section 1580, Ecological Reserves.
- B. Title 14, California Administrative Code, Chapter 11, Section 630, Ecological Reserves; and

Whereas, the Department has the capability to manage offshore resources;

Now Therefore,

The Bureau Agrees:

1. To turn over management responsibilities of the Sanctuary to the Department.
2. To only authorize use of the Sanctuary within the constraints of PLO 6369 and this agreement.
3. To authorize appropriate uses within the Sanctuary only following consultation and concurrence by the Department.

The Department Agrees:

1. To be responsible for management of the Sanctuary.
2.
 - A. To only allow public uses of the Sanctuary which are consistent and compatible with the protection and conservation of the wildlife resources.
 - B. During the nesting season (April 1 - August 15), to only allow activities demonstrated as non-detrimental to breeding pelagic birds.
 - C. To prohibit removal of vegetation, minerals, or other products having commercial value.
3. To conduct, when feasible, biological surveys at seasons appropriate for estimating breeding bird and marine mammal populations by species. Such data will be reported to the Bureau so trend analysis can be made.
4. To allow entry into the Sanctuary by agents of the United States government when on official duty status.
5. To insure that authorized use does not significantly alter the Sanctuary's capacity to support wildlife.
6. To consult with the Bureau on any matters pertaining to the Sanctuary which are above and beyond the intent of this Memorandum of Understanding, e.g., leasing on submergent lands, other activities which could significantly affect the objectives of the Sanctuary.

It is Mutually Agreed:

1. It is expressly stipulated and agreed by both parties that each and every provision in this Memorandum of Understanding is subject to the laws of the State of California, the laws of the United States, and to the delegated authority assigned in each instance.
2. Nothing in this agreement shall be construed as obligating either agency hereto in the expenditures of funds, or for the future payment of money, in excess of appropriations authorized by law.
3. That no member of, or delegate to Congress, or Resident Commissioner, shall be admitted to any share of part of this agreement, or to any benefit that may arise therefrom.
4. To accomplish all cooperative work under the provisions of this memorandum or supplemental memorandum of understanding or cooperative agreements without discrimination against any employee, or applicant for employment, because of race, creed, color, or national origin.
5. This Memorandum or Understanding shall become effective when signed by the designated representatives of the parties hereto and shall remain in force until terminated by mutual agreement, or by either party upon thirty days

notice in writing to the other of its intention to terminate upon a date indicated. Amendments to this MOU may be proposed by either party and shall become effective upon approval by both parties.

Approved

E.C. Fullertan

Director, California Department of
Fish and Game

May 13, 1983

Date

Approved

Ed Hastey

State Director, Bureau of Land Management

May 23, 1983

Date

I CONCUR

Gordon VanVleck

Secretary for Resources, State of
California

May 24, 1983

Date

I CONCUR

Robert Burford

Director, Bureau of Land Management

May 24, 1983

Date

Approved by the Department of General Services - May 13, 1983